

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6021

BILL NUMBER: SB 27

NOTE PREPARED: Feb 26, 2008

BILL AMENDED: Feb 21, 2008

SUBJECT: Cooling off Period for Domestic Battery.

FIRST AUTHOR: Sen. Arnold

FIRST SPONSOR: Rep. L. Lawson

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill requires a facility having custody of a person arrested for a crime of domestic violence to keep the person in custody for at least eight hours from the time of the arrest, and prohibits a person arrested for a crime of domestic violence from being released on bail during the eight-hour period.

Effective Date: July 1, 2008.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: Any added costs will depend on the existing local policy of holding persons arrested for domestic violence, the county's jail population and jail capacity, and the current length of time an arrested person takes to be released from jail pending a court date. (Note: By law, an arrest is defined as: "taking of a person into custody, that he may be held to answer for a crime". IC 35-33-1-5)

Based on a survey conducted by the Indiana Coalition Against Domestic Violence, LSA estimates at least half of all counties in Indiana may not have any form of a hold policy and could see more persons remaining in jail for longer periods of time before they are released pending trial.

The length of time that a person needs to be released from jail will depend on the assurance that the court needs to determine whether the arrested person will appear in court and not be a threat to public safety. While persons who are arrested may be released on their own personal recognizance, it is not known whether most

courts require a person to deposit money with the court to ensure the person's appearance in court. The length of time that it takes a person to be released from jail pending trial is not known.

In a survey conducted by the Indiana Coalition Against Domestic Violence, representatives of 39 counties reported their county's holding policy for defendants in domestic violence cases. These 39 counties represent 60% of the entire state population. Of those responding, 28 reported that they had some type of hold policy for persons arrested for domestic violence.

Survey of 92 Counties Concerning Holding Policies of Persons Arrested for Domestic or Family Violence				
		Number of Counties	Population of Subgroups	Percent of State Population
Counties	Counties with Holding Policy	28	1,766,549	29%
Responding	Counties with No Holding Policy	11	1,870,479	31%
Counties Not Responding		53	2,430,410	40%
Total Counties		92	6,067,438	100%

Of the 28 counties reporting a hold policy, 17 counties reported having lengths of holds ranging from the time a bond is posted to a maximum of 48 hours.

Length of Hold	Number of Counties	Population of Counties in Sample	Percentage of Responding Population
Until bond is posted	2	159,403	4%
12 hours	6	437,670	12%
24 hours	3	150,679	4%
Up to 48 hours	6	409,570	11%
8 hours	2	30,796	1%
Until court appearance	9	578,431	16%
	28	1,766,549	49%

Background: IC 35-41-1-6.3 specifies that crimes involving domestic violence have as an element the use of physical force; or threatened use of a deadly weapon; and are committed against a current or former spouse, parent, or guardian of the defendant; person with whom the defendant shared a child in common; person who was cohabiting with or had cohabited with the defendant as a spouse, parent, or guardian; or person who was or had been similarly situated to a spouse, parent, or guardian of the defendant.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Sheriffs, Courts, Prosecuting Attorneys.

Information Sources: Indiana Coalition Against Domestic Violence.

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